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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,417	10/02/2003	Wei Zhao	9400-43	8458
39072	7590	06/07/2005	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627			ZANELLI, MICHAEL J	
		ART UNIT	PAPER NUMBER	
		3661		

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/677,417	ZHAO ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Michael J. Zanelli	3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 14 April 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-37 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-17 and 19-34 is/are allowed.
- 6) Claim(s) 35-37 is/are rejected.
- 7) Claim(s) 18 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/14/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

1. This is responsive to the amendment filed 4/14/05. Claims 1-37 are pending.
2. The IDS filed 4/14/05 has been considered.
3. Claim 18 is objected to because of the following informalities:
  - A. Claim 18 has been amended to change the alternative “or” to “and/or”. However, this change is inconsistent with the use of the phrase “at least one of ...” which implies selection from a group. The “or” option negates the establishment of the group of elements. The examiner suggests deleting “/or”.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al. or Trayford et al. in view of Kirshenbaum et al. (6,584,401).
  - A. As per claim 35, Smith discloses a traffic notification system (Fig. 1) comprising at least one subscriber device (12) with a location determining means (58) which provides dynamically determined location and direction of travel, a traffic notification server (14) in communication with the subscriber device(s), subscriber database (22) for storing subscriber information and a traffic monitoring system (24) for providing traffic information for a road network. The system utilizes the stored subscriber information to automatically notify the subscriber of traffic conditions relative to prestored travel routes or destinations (col. 1, line 61 to col. 2, line 27; col. 3, lines 61-63). The system monitors the location(s) of the subscriber device(s) using

the location determining means (58) such that the traffic information can be dynamically updated as the subscriber travels along a route (col. 3, lines 49-54).

Trayford discloses a traffic notification system (Abs; Fig. 1) which includes at least one subscriber device (7) (page 10, lines 1-2) with a location determining means (page 22, lines 18-21) which provides dynamically determined location and direction of travel, a traffic notification server (5,6) in communication with the subscriber device(s), subscriber database (4) for storing subscriber information and a traffic monitoring system (2) for providing traffic information for a road network. The system utilizes the stored subscriber information to automatically notify the subscriber of traffic conditions relative to prestored travel routes or destinations (page 2, lines 30-34; page 3, lines 26-28; page 4, lines 24-30; page 11, lines 16-23). The system monitors the location(s) of the subscriber device(s) using the location determining means such that the traffic information can be dynamically updated as the subscriber travels along a route (page 6, lines 31-34).

Both Smith and Trayford utilize travel paths (i.e., commuter routes) prestored in the subscriber's registration information. The claimed invention differs in that the travel path information is learned by tracking subscribers. However, at the time of applicant's invention it was known in the art to obtain travel path or commuter routes of subscriber's by tracking and recording their movements. For example, Kirshenbaum discloses a system for automatically gathering and recording the commuting paths of subscriber's (Abs.) as an alternative to the subscriber providing the information themselves (col. 2, lines 26-34). One of ordinary skill in the art would have found it

obvious to alternatively provide the travel path information for a subscriber automatically, as taught by Kirshenbaum, rather than using registration information provided directly by the subscriber, as disclosed by Smith and Trayford, whereby the obvious advantage would have been the elimination of the need for the subscriber to manually input travel paths.

B. As per claims 36 and 37, as above whereby the travel paths/commuter routes are associated with subscribers and stored in the subscriber database. As noted by Kirshenbaum, activation of the learning mode is initiated by the subscriber by placing the wireless device in an operational mode (col. 4, lines 17-34).

6. Claims 1-34 are distinguishable. As per claims 1, 5, 19, 20, 21, 28 and 32, the prior art of record does not show or reasonably suggest, in combination with the other claimed subject matter, the added limitation of establishing a virtual boundary relative to a subscriber and automatically transmitting traffic notification messages associated with the virtual boundary. Dependent claims 2-4, 6-18, 22-27, 29-31, 33 and 34 are distinguishable for at least the same reasons.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited documents are of general interest. Although Burns (6,590,507) discloses establishing a virtual boundary (traffic alert cone) for determining the traffic information to be provided to the user (Fig. 2), the filtering process takes place at the receiving end rather than at the transmitting end. The information transmitted by the traffic server is general traffic information and is not limited until after it is received and filtered by the subscriber's wireless device (Fig. 3; col. 2).

8. Claims 1-17 and 19-34 are allowed.
9. Claim 18 would be allowable if rewritten to overcome the objection noted above.
10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).  
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (571) 272-6969. The examiner can normally be reached on Monday-Thursday 8:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/mjz

  
MICHAEL J. ZANELLI  
PRIMARY EXAMINER